IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 4102 of 2007(L)

PETITIONER:

M/S.GODREJ APPLIANCES LTD., EDACHIRA,
KAKKANAD, NEAR INFO PARK, KOCHI 30
ERNAKULAM DIST., REP. BY ITS BRANCH
COMMERCIAL MANAGER & AUTHORISED
SIGNATORY MR.P.RAGHAVAN

BY ADV. SRI.BOBBY JOHN
SRI.TOMSON T.EMMANUEL

RESPONDENTS:
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1. THE COMMERCIAL TAX OFFICER, COMMERCIAL TAXES,
IIND CIRCLE, RAVIPURAM, ERNAKULAM.

2. THE COMMISSIONR OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER (TAXES) SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.4102 OF 2007

Dated this the 6th day of February, 2007

JUDGMENT

Heard learned counsel for the petitioner and learned Government Pleader.

2. This case raises a very curious situation. According to the petitioner, it was served with a pre-assessment notice under the KGST Act on 18.12.2006 and on 30.12.2006, the petitioner submitted Ext.P2 detailed reply with a request for sufficient opportunity to produce 'F' forms and certificates. The assessment authority, however, proceeded and passed assessment order on that day itself. The complaint raised is that sufficient opportunity was not afforded and the objections were not considered.

2. Having heard learned counsel for the petitioner in extenso on the merits of the case and having considered the contents of

the assessment order, I am satisfied that the assessing officer had adverted to and considered the relevant provisions while rejecting the request for adjournment to produce 'F' forms and certificates. Under such circumstances, it cannot be treated as a situation where there is jurisdictional error warranting interference under Article 226 of the Constitution of India. Nor is it a case where the principles of natural justice has been violated. As of now, it is pointed out that the 'F' forms and certificates received, if properly applied and given due credit, would deplete the tax assessed and scale it down to around Rs.25,00,000/-.

3. In the aforesaid circumstances, this writ petition is disposed of directing that if the petitioner deposits an amount of Rs.25,00,000/- within a period of two weeks, the statutory appellate authority will grant an order of stay in a statutory appeal against Ext.P3 assessment order and provide the petitioner an opportunity to produce 'F' forms and other materials before the appellate authority and will also grant an

opportunity of hearing and expedite final disposal of the appeal. However, if there is delay in filing such a statutory appeal, the said delay will also be condoned on proper application since the facts and circumstances abundantly disclosed that the petitioner has even now shown sufficient cause to condone any such delay.

The writ petition is disposed of with the above direction.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.